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**Federal Communications Commission**

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
East Tennessee State University	)	File No.: EB-FIELDSCR-13-00013321
Licensee of Station W218BW	)	
	)	NOV No.: V201432640006
	)	
Johnson City, Tennessee	)	Facility ID: 18255
	)	

**NOTICE OF VIOLATION**

**Released: March 26, 2014**

By the Resident Agent, Norfolk Resident Agent Office, South Central Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)<sup>1</sup> to East Tennessee State University, license of FM Translator Station W218BW in Lenoir, North Carolina. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation(s) noted herein.<sup>2</sup>

2. On December 19, 2013, an agent of the Enforcement Bureau's Norfolk Resident Agent Office inspected the structure supporting the transmitting antenna for Station W218W located in Lenoir, North Carolina and observed the following violation:

- a. 47 C.F.R. § 74.1265(b): "The call sign of the translator or booster together with the name, address, and telephone number of the licensee or local representative of the licensee if the licensee does not reside in the community served by the translator or booster, and the name and address of a person and place where station records are maintained, shall be displayed at the translator or booster site on the structure supporting the transmitting antenna, so as to be visible to a person standing on the ground at the transmitter site. The display shall be prepared to withstand normal weathering for a reasonable period of time and shall be maintained in legible condition by the licensee." At the time of inspection, no information concerning FM Translator Station W218BW was displayed at the translator site on the structure supporting the transmitting antenna that was visible to the FCC agent standing on the ground.

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<sup>1</sup> 47 C.F.R. § 1.89

<sup>2</sup> 47 C.F.R. § 1.89(a).

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- b. 47 C.F.R. § 74.1284 (b): “The licensee of an FM translator shall not rebroadcast the programs of any AM or FM broadcast station or other FM translator without obtaining prior consent of the primary station whose programs are proposed to be retransmitted. The Commission shall be notified of the call letters of each station rebroadcast and the licensee of the FM translator shall certify that written consent has been received from the licensee of the station whose programs are retransmitted.” At the time of inspection, the licensee admitted that it was rebroadcasting the programming of FM broadcast station WYRN without obtaining prior consent, written or verbal.
- c. 47 C.F.R. § 74.1261(b): “ The licensee of an FM translator or booster station with an authorized transmitter power output greater than 10 watts shall maintain the center frequency at the output of the translator or booster station in compliance with the requirement of §73.1545(b)(1) of this chapter.” (may not exceed  $\pm 2000$  Hz from the assigned frequency.) At the time of inspection, the frequency of the FM Translator W218BW exceeded its assigned frequency by -400 kHz.

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,<sup>3</sup> and Section 1.89 of the Rules, we seek additional information concerning the violation and any remedial action taken. Therefore, East Tennessee State University must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.<sup>4</sup>

4. In accordance with Section 1.16 of the Rules, we direct East Tennessee State University to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of East Tennessee State University with personal knowledge of the representations provided in East Tennessee State University’s response, verifying the truth and accuracy of the information therein,<sup>5</sup> and confirming that all of the information requested by this Notice which is in the licensee’s possession, custody, control, or knowledge has been produced. To knowingly and willfully

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<sup>3</sup> 47 U.S.C. § 308(b).

<sup>4</sup> 47 C.F.R. § 1.89(c).

<sup>5</sup> Section 1.16 of the Rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person . . . . Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)’.” 47 C.F.R. § 1.16.

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make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.<sup>6</sup>

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission  
Norfolk Office  
1457 Mount Pleasant Rd., Suite 113  
Chesapeake, Virginia 23322

6. This Notice shall be sent to East Tennessee State University at its address of record. The Privacy Act of 1974<sup>7</sup> requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Luther Bolden  
Resident Agent  
Norfolk Office  
South Central Region  
Enforcement Bureau

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<sup>6</sup> 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

<sup>7</sup> P.L. 93-579, 5 U.S.C. § 552a(e)(3).